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From: Enck, Judith
Sent: Mon 11/28/2016 8:48:58 PM
Subject: Re: AES coal ash - UPDATE

Thanks. We typically do not testify on state or commonwealth bills. We can submit a letter explaining what EPA has done on this issue in the past

Sent from my iPhone

On Nov 28, 2016, at 3:50 PM, Simon, Paul <Simon.Paul@epa.gov> wrote:

My apologies if you know this already but I just learned from Hector Velez that the Puerto Rico Senate plans to hold a hearing on November 30 on the topic of the disposal or handling of AES's coal ash, and it appears that a representative of the PR Senate is going to request that Judith or Carmen testify at the hearing. We don't have much information about the specifics of this hearing, but an item that may be discussed is one or more of the bills that have been introduced or drafted in the PR Senate, dealing with the disposal of the coal ash. I'm not aware of a formal request for testimony being made to EPA yet (you may know better than I), but if/when such a request is submitted, I assume we will decline the request, as we almost always do in other cases. As for whether it would make sense for EPA to send something in writing to the relevant PR Senate committee, I don't think we need to make a decision about that (which I know would need to be vetted through HQ) unless/until we get more specific information as to what specific questions the committee has.

By way of background, here is an item that was in ORC's weekly news on Nov. 16:

AES update. On November 9, 2016, the Puerto Rico Court of Appeals reversed the Ponce trial court and allowed the disposal of coal combustion residues (CCRs) from AES in the Peñuelas landfill. The trial court had issued a decision last month, prohibiting the deposit of CCRs in the landfill. A separate case brought by AES is still pending in the Puerto Rico Supreme Court, regarding the validity of the Peñuelas municipal ordinance banning the disposal of CCRs.

More recently, I gather that demonstrations have continued outside of the Peñuelas Landfill, and some citizens, who have been trying to prevent coal ash from being disposed of at the landfill, have been arrested.